

CCB-CC-0946

Kingsley Terrace Church of Christ

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Where GOD is Glorified, Saints are Sanctified, Lives are Changed.

Friday, December 04, 2009

Received & Inspected

Via First Class U.S. Mail

DEC 16 2009

FCC Mail Room

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, D.C. 20554

Re: Petition for Undue Burden Exemption
from Closed Captioning Rules

Dear Ms. Dortch:

This letter is submitted pursuant to 47 C.F.R. §79.1(f) and requests an exemption on behalf of Kingsley Terrace Church of Christ from the FCC's closed captioning rules based on undue burden. In accordance with 47 C.F.R. §79.1(f)(4), the original and two copies of this letter and all support are being provided.

Kingsley Terrace Church of Christ is a donor supported non-profit organization under the laws of the state of Indiana. Since 2007, we have produced a weekly 30-minute video program called Kingsley Terrace Church of Christ Program. This is a program that ministers to those in need, and is locally produced in-house by Kingsley Terrace Church of Christ staff, and is broadcast to the public on WHMB-TV40 Indianapolis, Indiana. Kingsley Terrace Church of Christ pays WHMB \$395 per week to air the show over its broadcast facilities.

Captioning the program would present an undue burden for several reasons. First,

since we do not have the resources to caption the program ourselves, it would have to be sent to an outside source for captioning. Second, the added production cost for captioning would make production of the program unaffordable and the time for captioning would make meeting WHMB air-date deadlines impossible. Finally, a captioning requirement would ultimately cause us to either terminate or severely limit production of the program, and cause us to lose viewers and supporters who would no longer be able to regularly view the program. We have discussed with WHMB the possibility of their assisting us in captioning the program at no cost, but they have advised us that they do not have the necessary resources or staffing to perform captioning on our behalf.

Kingsley Terrace Church of Christ respectfully submits that the basis for its captioning exemption request based on undue burden is practically identical to the facts justifying undue burden exemptions in the Commission's 2006 Memorandum Opinion & Order, *In Re Anglers for Christ Ministries, Inc. & New Beginning Ministries Petitions for Exemption from Closed Captioning Requirements*, CGB-CC-0005 and -0007, 21 FCC Rcd 10094 (September 12, 2006). In light of that precedent, and the facts set forth in this letter, we respectfully request that Kingsley Terrace Church of Christ be granted an undue burden exemption from the captioning requirements for Revelation for Faith.

In support of our request, we provide a copy of certain documents establishing Kingsley Terrace Church of Christ's non-profit status. In addition, as permitted by §1.16 of the Commission's rules, we are providing a Declaration Under Penalty of Perjury in support of the facts set forth in this request for exemption in lieu of the affidavit required by §79.1(f)(9). Should the Commission require additional information, please contact the undersigned individual.

Respectfully:

Kingsley Terrace Church of Christ

A handwritten signature in black ink that reads "Dwaine W. Himes". The signature is written in a cursive, flowing style.


Dwaine W. Himes, Elder
Treasurer

**Declaration Under Penalty of Perjury of Dwaine W. Himes, Elder
in support of Kingsley Terrace Church of Christ's Request for Undue
Burden Exemption from Closed Captioning Rules**

I, Dwaine W. Himes, Elder of Kingsley Terrace Church of Christ, do hereby declare under penalty of perjury of the laws of the United States of America that the following statements are true and correct.

1. Kingsley Terrace Church of Christ is a donor supported non-profit organization organized under the laws of the state of Indiana.
2. Since 2007, Kingsley Terrace Church of Christ has produced a 30-minute video program called Kingsley Terrace Church of Christ program. This is a program that ministers to those in need. The Kingsley Terrace Church of Christ program is locally produced in-house by Kingsley Terrace Church of Christ staff, and is broadcast to the public on WHMB-TV40, Indianapolis, Indiana. Kingsley Terrace Church of Christ pays WHMB \$395 per week to air the show over its broadcast facilities.
3. Kingsley Terrace Church of Christ has discussed with WHMB the possibility of their assisting in captioning Revelation for Faith at no cost, but they have advised us that they do not have the necessary resources or staffing to perform captioning on our behalf.
4. Captioning the Kingsley Terrace Church of Chris program would present an undue burden because we do not have the resources to caption the program ourselves, and it would have to be sent to an outside source for captioning.
5. The added production cost for captioning would make production of the program unaffordable and the time for captioning would make meeting WHMB air-date deadlines impossible.
6. A captioning requirement for the Kingsley Terrace Church of Chris would ultimately cause Kingsley Terrace Church of Christ to either terminate or severely limit production of the program, and cause us to lose viewers and supporters who would no longer be able to regularly view the program.

Executed on December 4th, 2009.


Dwaine W. Himes, Elder

FAX TRANSMISSION

PRICE WAICUKAUSKI & RILEY, LLC

301 Massachusetts Avenue
Indianapolis, IN 46204
(317) 633-8787
Fax: (317) 633-8797

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To:	Elder Dwaine Himes	Fax #:	924-9172
Date:	December 9, 2009	Pages:	9 Including this cover page
From:	Erin Amos		
Subject:	Amended Kingsley Terrace By-Laws	File No.:	17215.00

If you do not receive the correct number of pages, please call the operator as soon as possible.

☒ ORIGINAL WILL BE RETAINED BY SENDER
☐ ORIGINAL WILL FOLLOW VIA U.S. MAIL

Comments:

AMENDED BY-LAWS
OF THE
KINGSLEY TERRACE CHURCH OF CHRIST, INCORPORATED

ARTICLE I

Section 1. The name of the Corporation shall be the Kingsley Terrace Church of Christ, Incorporated.

Section 2. Location. The post office address of its principal office is 2031 East 30th Street, Indianapolis, Indiana 46218, and the name and address of its resident agent is Dwaine Himes, 3748 Kinnear, Indianapolis, Indiana 46218. The location of its principal office, or the designation of its resident agent, or both, may be changed at any time, or from time to time when authorized by the Board of Directors and approved by the Executive Board, by filing with the Secretary of State, on or before the day, any such change is to take effect, or within the ten days after the death of the resident agent, or other unforeseen termination of his agency, a certificate signed by the President or Vice-President, and the Secretary of the Corporation, and verified by one of such offices signing the same, stating the change to be made and reciting that such change is made pursuant to authorization by the Board of Directors and approved by the Executive Board.

Section 3. Seal. The seal of the Corporation shall be circular in form and mounted upon a metal die, suitable for impressing the same upon paper. About the periphery of the seal shall appear the words "Kingsley Terrace Church of Christ, Incorporated" and "State of Indiana." In the center of the seal shall appear the word "Seal."

Section 4. Composition of the Corporation. The administrative governance of the Corporation is vested in the Executive Board and assisted by the Board of Directors. The

Executive Board retains sole and unlimited authority over the Corporation. The Board of Directors is charged with the usual and ordinary administrative duties subject to the Executive Board.

ARTICLE II

Calendar Year

The calendar year of the Corporation shall begin on the first day of January in each year and end upon the last day of December of the same year.

ARTICLE III

Executive Board

The Executive Board is composed of the existing eldership of the Church. Newly selected elders will be admitted to the Executive Board. The Executive Board shall have the absolute right to approve or disapprove the motions, decisions or any other action purporting to bind the Corporation made by the Board of Directors. Sole and unlimited authority is vested in the Executive Board.

ARTICLE IV

Board of Directors

Section 1. Election and Qualifications. At the annual meeting of the Corporation, five directors, recommended by the elders and deacons of the congregation, shall be elected by the members for a term of four years; and they shall hold office until their successors are chosen and qualified.

Section 2. Vacancies. Any vacancy occurring in the Board of Directors caused by death, resignation, increase in numbers of Directors, or otherwise, shall be filled by a majority vote of the remaining members of the Board, until the next annual meeting of the Corporation.

Section 3. Quorum. A majority of the whole Board of Directors shall be necessary to constitute a quorum for the transaction of any business except the filling of vacancies, and the act

of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of the Directors.

Section 4. Annual Meeting of Membership. The membership of the Corporation shall meet on the 15th day of the first month of each year, for the purpose of organization, election of the directors and officers, and consideration of any other business that may be brought before the meeting. Notice shall be necessary for the holding of this annual meeting.

Section 5. Meeting of Board of Directors. The Board of Directors shall meet every month for the purpose of consideration of business that may be brought before the meeting. Other meetings of the Board of Directors of the Corporation may be held upon the call of the President, or of three members of the Board of Directors, or by the Executive Board at such place, within the State of Indiana, upon five days notice, specifying the time, place and general purposes of the meeting, to each Director, either personally, by mailing or by telephone. At any meeting at which all Directors are present, notice of the time, place and purpose thereof shall be deemed waived; and similar notice may likewise be waived by absent Directors, either by written instrument or by telegram, executed either before or after such meeting. By a special resolution adopted by the Board, the Board may establish regular monthly meetings to be held without the mailing of notices of such meeting to the members of the Board.

Section 6. Powers of the Board of Directors. The Board of Directors shall set the salaries of all employees, and to employ and discharge all employees, and set the wages or salaries thereof, with the approval of the Executive Board; the Executive Board itself shall set the salaries and handle the discharge of all Church employees. The Board may, by resolution, from time to time, prescribe the manner in which all obligations of the Corporation shall be issued and signed, subject to the ratification of the Executive Board.

The Board may also prescribe the manner in which the books of the Corporation shall be kept and audited, and the affairs of the Corporation managed; what officer or officers may borrow money in the name of the Corporation; and in general, said Board shall have full charge and management of the business affairs of said Corporation, with power to act in the premises, except as limited by the Executive Board.

The Board shall have no authority over spiritual or doctrinal matters.

ARTICLE V

Section 1. Election. At its first annual meeting of membership, there shall be elected President, a Secretary and a Treasurer for a period of one year, or until their successors are elected and qualified. The President shall be chosen from the Board of Directors or Executive Board, but none of the other officers of the Corporation need be a Director. Any two or more offices may be held by the same person, excepting that the duties of the President and Secretary shall not be performed by the same person. If an annual meeting is not held at the time designated by these By-Laws, such failure shall not cause any defect in the corporate existence of the Corporation, but the officers for the time being shall hold over until successors are chosen and qualified.

Section 2. Removal. Any elective officer of the Corporation may be removed at any time by the Board of Directors and/or the Executive Board.

Section 3. The President. The President shall preside at all meetings of the Board, discharge all the duties which devolve upon a presiding officer, and perform such other duties as these By-Laws provide, or the Board of Directors or Executive Board may prescribe.

The President shall have authority, subject to the Executive Board, to execute proxies on behalf of this Corporation, to vote stock owned by it in any other corporation, and to execute,

with the Secretary, powers of attorney appointing other corporations, partnerships or individuals, the agent of this Corporation, all subject to the provisions of an Act to amend I.C. 23-7, concerning the organization of not-for-profit corporations, approved April 16, 1971, of the Act of 1971, and all Acts amendatory thereof and supplemental thereto.

Section 4. The Vice-President. The Vice-President shall perform all duties incumbent upon the President during the absence or disability of the President, and shall perform such other duties as these By-Laws may require of the Board of Directors or the Executive Board may prescribe.

Section 5. The Secretary. The Secretary shall attend all sessions of the Board of Directors and shall act as Clerk thereof and record all votes and keep an accurate record of the minutes of the proceedings of all such meetings and cause notices of all meetings of the Board to be given by the President.

Section 6. The Treasurer. The Treasurer shall have custody of the corporate funds and securities and shall keep full and accurate account of all receipts and disbursements, and shall deposit all moneys to the credit of the Corporation in such depository as may be prescribed by the Board of Directors or the Executive Board from time to time.

ARTICLE VI

Indemnification of Directors, Officers and Employees

The Corporation shall indemnify any person made a party to any action, suit or proceeding by reason of the fact that he or his decedent is or was a member of the Executive Board or Director, Officer or employee of the Corporation against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein, except in

relation to matters as to which it shall be adjudged in such action, suit or proceeding that such member of the Executive Board, Director, Officer, or employee is liable for negligence or misconduct in the performance of his duties. The Corporation shall also reimburse to any member of the Executive Board, Director, Officer or employee the reasonable costs of settlement of, or judgment rendered in, any such action, suit or proceeding, if it shall be found by a majority of a committee composed of the Directors, not involved in the matter of controversy (whether or not a quorum), in their judgment reasonably exercised and ratified by the Executive Board, that such member of the Executive Board, Director, Officer or employee was not guilty of negligence or misconduct in the performance of his duties and such findings is not inconsistent with any final adjudication made in such action, suit or proceeding. No member of the Executive Board, Director, Officer or employee shall be deemed guilty of negligence or misconduct in the performance of his duties, when acting in good faith, such member of the Executive Board or Director, Officer or employee relied upon the books and records of the Corporation or statement or advice made by or prepared by any Officer or employee of the Corporation, or any accountant, attorney or other person, firm or corporation employed by the Corporation to render advice or service, unless such member of the Executive Board, Director, Officer or employee had actual knowledge of the falsity or incorrectness thereof; nor shall a Director be deemed guilty of negligence or misconduct by virtue of the fact that he failed or neglected to attend a meeting or meetings of the Board of Directors of the Corporation.

ARTICLE VII

Members of the Board of Directors

Section 1. Classes. There shall be one class of members. There shall be no distinction between memberships, all members shall have the same rights, preference, limitations and restrictions.

Section 2. Meetings.

(a) Annual Meeting. An annual meeting of the members shall be held on the 15th day of January each year. Notice shall be necessary for the holding of this annual meeting.

(b) Board of Directors. The Board of Directors shall meet every month.

(c) Special Meetings. Special meetings of members may be called by the President, by a majority of the Board of Directors, by the Executive Board, or by written petition signed by not less than one-tenth of the members authorized to vote by the Articles of Incorporation.

(d) Notices. A written or printed notice stating the place, day and hour of the special meeting and the purpose for which the special meeting is called, shall be delivered or mailed by the Secretary, or by the officer or person calling the meeting, to each member of record entitled to vote at that meeting, at the address which appears on the records of the Corporation, at least ten days before the date of the meeting. Notice of any meeting of members may be waived in writing filed with the Secretary, or by attendance in person. All notices must also be served on each member of the Executive Committee.

(e) Voting. Every member shall have the right at the annual meeting to one vote in his/her name on the books of the Corporation, with the understanding that no

person shall be eligible to vote or participate at any such election of Directors who does not subscribe in and to the provisions and conditions of the teaching of the New Testament as enumerated in the Articles.

(f) Quorum. A majority of the persons qualified to vote as members, represented in person, shall constitute a quorum.

(g) Organization. The President and, in his absence, any Officer authorized, and, in their absence, any member so designated by the Executive Board, shall call meetings of the members to order and shall act as chairman of such meetings, and the Secretary of the Corporation shall act as secretary of all meetings of the members. In the absence of the Secretary, the presiding officer may appoint a member to act as secretary of the meeting.

ARTICLE VIII

Amendments

These By-Laws may be altered, repealed or amended in whole or in part; and new By-Laws may be adopted at any regular meeting of the Board of Directors and at a special meeting of the Board of Directors by a majority vote ratified by the Executive Board; provided, however, that notice of such meeting shall contain notices of such proposed change.